

(f) After review of the information contained in the application, the Director shall prepare a FEDERAL REGISTER notice regarding the State's or Indian tribe's submission and provide for public comment. After receipt and evaluation of the comments and a determination that the funding meets the requirements of the regulations in this part and is in the best interests of the State or Indian tribe AML program, the Director shall approve the request for funding the activity or construction at a cost commensurate with its benefits towards achieving the purposes of the Surface Mining Control and Reclamation Act of 1977.

[59 FR 28173, May 31, 1994]

**§ 875.16 Exclusion of certain noncoal reclamation sites.**

Money from the Fund shall not be used for the reclamation of sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or that have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*).

[59 FR 28173, May 31, 1994]

**§ 875.17 Land acquisition authority—noncoal.**

The requirements specified in Parts 877 (Rights of Entry) and 879 (Acquisition, Management and Disposition of Lands and Water) shall apply to a State's or Indian tribe's noncoal program except that, for purposes of this section, the references to coal shall not apply. In lieu of the term *coal*, the word *noncoal* should be used.

[59 FR 28173, May 31, 1994]

**§ 875.18 Lien requirements.**

The lien requirements found in Part 882—Reclamation on Private Land shall apply to a State's or Indian tribe's noncoal reclamation program under Section 411 of the Act, except that for purposes of this section, references made to coal shall not apply. In lieu of the term *coal*, the word *noncoal* should be used.

[59 FR 28173, May 31, 1994]

**§ 875.19 Limited liability.**

No State or Indian tribe shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State or Indian tribe abandoned mine reclamation plan. This section shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the State or Indian tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence or intentional misconduct.

[59 FR 28173, May 31, 1994]

**§ 875.20 Contractor responsibility.**

To receive AML funds for noncoal reclamation, every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's automated Applicant/Violator System for each contract to be awarded.

[59 FR 28173, May 31, 1994]

**PART 876—ACID MINE DRAINAGE TREATMENT AND ABATEMENT PROGRAM**

Sec.

876.1 Scope.

876.10 Information collection.

876.12 Eligibility.

876.13 Plan content.

876.14 Plan approval.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, as amended.

SOURCE: 59 FR 28174, May 31, 1994, unless otherwise noted.

**§ 876.1 Scope.**

This part establishes the requirements and procedures for the preparation, submission and approval of State or Indian tribe Acid Mine Drainage Treatment and Abatement Programs.

**§ 876.10 Information collection.**

The collections of information contained in part 876 have been approved

by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0104. The information will be used to determine if the State's or Indian tribe's Acid Mine Drainage Abatement and Treatment Programs are being established according to legislative mandate. Response is required to obtain a benefit in accordance with Public Law 95-87. Public reporting burden for this information is estimated to average 1,040 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, room 640 N.C., 1951 Constitution Avenue NW., Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1029-0104), Washington, DC 20503.

#### §876.12 Eligibility.

(a) Any State or Indian tribe having an approved abandoned mine land program may receive and retain, without regard to the three-year limitation set forth in Section 402(g)(1)(D) of the Act, up to 10 percent of the total of the grants made under Section 402(g) (1) and (5) of the Act to such State or Indian tribe for the purpose of abandoned mine land reclamation if such amounts are deposited into either:

(1) A special fund established under State or Indian tribal law pursuant to which such amounts (together with all interest earned) are expended by the State or Indian tribe solely to achieve the priorities stated in Section 403(a) after September 30, 1995; or

(2) An acid mine drainage abatement and treatment fund established under State or Indian tribal law.

(b) Any State or Indian tribe may establish under State or Indian tribal law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State or Indian tribe to implement, in

consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Director.

#### §876.13 Plan content.

Acid Mine Drainage Abatement Plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices. The plan shall include, but shall not be limited to, each of the following:

(a) An identification of the qualified hydrologic unit;

(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;

(c) An identification of the sources of acid mine drainage within the hydrologic unit;

(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;

(e) The cost of undertaking the proposed abatement and treatment measures;

(f) An identification of existing and proposed sources of funding for such measures; and

(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

#### §876.14 Plan approval.

The Director may approve any plan under §876.13(b) only after determining that such plan meets the requirements of §876.13. In conducting an analysis of the items referred to in §876.13(d), (e) and (g), the Director shall obtain the comments of the Director of the U.S. Bureau of Mines. In approving plans under this section, the Director shall give priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under the Rural Abandoned Mine Program.

### PART 877—RIGHTS OF ENTRY

Sec.

877.1 Scope.

877.10 Information collection.